

Attachment to Independent Case Review Report
for CDRU # 920 Case File # 95-293473.

Material Examiner Malone (RQ)

Remarks:

INDEPENDENT CASE REVIEW REPORT

Independent Review conducted by: STEVE ROBERTSON

Area(s) of Expertise: HAIR AND FIBERS

Review commenced at: 12:45P (Time), 9/14/99 (Date)

File #: 95-293473

Laboratory #(s): 00525023 10306032
00607054 10321042
00823033

Examiner(s) & Symbols

	Reviewed	Not Reviewed		Reviewed	Not Reviewed
<u>RQ</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
<u>ZD</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
<u>XT</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

Materials Reviewed

Trial testimony transcript(s) of: MICHAEL MALONE

Testimony Date(s): SEPT 12, 1991 Pages: 512-593

Laboratory Report(s): 00525023, 00607054,

Laboratory Number: 00823033, 10306032, 10321042 Date: 8-1-91

Laboratory Number: _____ Date: _____

Laboratory Number: _____ Date: _____

Examiner Bench Notes of: RQ AND several UNKNOWN technicians

Laboratory Number: 00525023, 00607054,
00823033, 10306032, 10321042

Laboratory Number: _____

Laboratory Number: _____

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Initials: SAC

Was any other material reviewed? Yes No

If yes, please identify and/or describe the material: SUBMITTING AGENCY LETTER DATED

May 24, 1990

Results of Review

File #: 95-293473 Item or Specimen # Reviewed: Q1-Q15, Q19-Q28,
Q34-Q66, K2-K6, K8-K14

Review of Laboratory Report(s) and Bench Notes:

Note: Numbered comments are required below or on
additional pages for any "No" or "Unable to Determine" Responses

- 1) Did the examiner perform the appropriate tests in a scientifically acceptable manner, based on the methods, protocols, and analytic techniques available at the time of the original examination(s)?
 Yes No Unable to Determine
- 2) Are the examination results set forth in the laboratory report(s) supported and adequately documented in the bench notes?
 Yes No Unable to Determine

Review of Testimony:

Note: Numbered comments are required below or on
additional pages for any "No" or "Unable to Determine" Responses

- Transcript not available.
- 3) Testimony consistent with the laboratory report(s)? Yes No Unable to Determine
 - 4) Testimony consistent with the bench notes? Yes No Unable to Determine
 - 5) Testimony within bounds of examiner's expertise? Yes No Unable to Determine

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Initials EJM

Comments

(Set forth by above question #, if applicable.
Use "Additional Comments" Sheet, if needed)

- #1. THERE IS INSUFFICIENT DOCUMENTATION TO DETERMINE IF THE HAIR AND FIBER COMPARISONS WERE PERFORMED IN A SCIENTIFICALLY ACCEPTABLE MANNER.
- #2. THE RESULTS ARE NOT ADEQUATELY DOCUMENTED IN THE NOTES. NOTES BY THE SEVERAL TECHNICIANS WHO PROCESSED THE EVIDENCE ARE NOT DATED OR INITIALED, THEY ARE WRITTEN WITH PENCIL INSTEAD OF INK AND GENERALLY DO NOT INDICATE THAT HAIR OR FIBERS WERE RECOVERED FROM THE EVIDENCE ITEMS (SUCH AS Q35). THE EXAMINER NOTES ARE IN PENCIL, ARE NOT DATED AND USE ABBREVIATIONS DIFFICULT TO INTERPRET. THE LENGTH AND NUMBER OF HAIR EXAMINED IS NOT NOTED. SOME HAIR WERE DEEMED UNSUITABLE WITH NO

Review completed at: 3:30p (Time), 9/14/99 (Date)

Total time spent conducting review (to nearest 1/4 hour): 2 3/4 hours

I hereby certify that I conducted this review in an independent, unbiased manner and that the results of my review are fully documented on this report consisting of a total of 5 pages.

Steve Robertson 9-14-99
(Signature) (Date)

Additional Comments
(Set forth by question #, if applicable)

File#: 95-293473

DOCUMENTED REASON OR EXPLANATION.

THE EXAMINER PERFORMED SOLUBILITY TESTS ON THE Q1 TEXTILE TO HELP IDENTIFY IT AS POLYESTER, BUT DID NOT DO THE SAME TESTS ON THE FIBER FROM Q35 (WHICH HE CALLED A MATCH TO Q1).

INSTRUMENTAL PARAMETERS USED TO OBTAIN SPECTRA ON THE Q1 AND Q35 FIBERS ARE NOT DOCUMENTED.

INFRARED ANALYSIS IS A MUCH MORE SPECIFIC METHOD TO IDENTIFY A FIBER AS POLYESTER. THIS METHOD WAS AVAILABLE TO THE EXAMINER; ACCORDING TO [REDACTED] IN 1990-1991 AND HE CHOSE TO USE SOLUBILITY TESTS.

CONFIRMATION OF THE HAIR COMPARISON WAS APPARENTLY OBTAINED FROM ANOTHER EXAMINER, BUT THE SPECIMENS EXAMINED BY THE SECOND EXAMINER ARE NOT SPECIFIED.

b6
b7c

#3. THE TESTIMONY ABOUT THE STRENGTH OF THE HAIR AND FIBER COMPARISONS IS STRONGER THAN THE REPORT.

#5. THIS EXAMINER TESTIFIED IT IS FBI LAB POLICY THAT A HAIR MUST HAVE AT LEAST 15 INDIVIDUAL MICROSCOPIC CHARACTERISTICS OR IT HAS NO VALUE FOR COMPARISON. [REDACTED] SAYS HE IS NOT AWARE OF THE FBI LAB HAVING THIS POLICY. THIS OPINION IS NOT SHARED BY MOST OTHER HAIR EXAMINERS.

THIS EXAMINER INCORRECTLY TESTIFIED THAT THE MICROSPECTROPHOTOMETER CAN IDENTIFY THE DYE ON A FIBER. THERE

Additional Comments
(Set forth by question #, if applicable)

File #: 95-293473

ARE PUBLISHED ARTICLES IN THE JOURNAL OF FORENSIC SCIENCES WHICH CLEARLY STATE MICROSCROPIPHOTOMETRY CANNOT IDENTIFY THE DYE, IT ONLY MEASURES COLOR.

THIS EXAMINER HAD A PHOTOGRAPHIC DISPLAY OF THE Q1 TO Q35 FIBER COMPARISON PREPARED FOR COURT PRESENTATION, BUT THERE ARE NO PHOTOGRAPHS OR DOCUMENTATION ABOUT THIS IN THE CASE FILE.
